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In re Application of
Jeffrey G. Marx et al.
Application No. 09/440,144
Filed: November 15, 1999
Attorney Docket No. 2333.0056C

OFFICE OF PETITIONS

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)¹, filed January 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed October 22, 2003. An amendment and one month extension of time filed February 23, 2004 were considered and the applicant was advised in an advisory action, mailed March 16, 2004 that the amendment did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed August 18, 2004.

A petition to revive was filed October 29, 2004 and was dismissed in a decision mailed January 3, 2004 because the Examiner determined that the amendment submitted with the petition still did not place the application in condition for allowance.

Comes now petitioner with this renewed petition.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Upon review of the amendment filed with the instant renewed petition, the Examiner has determined that the amendment does in fact prima facie place the application in condition for allowance.

The matter is being referred to Technology Center 3738 for further examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P" and a long, sweeping underline.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions